

NOTICES OF EXEMPT RULEMAKING

The Administrative Procedure Act requires the *Register* publication of the rules adopted by the state's agencies under an exemption from all or part of the Administrative Procedure Act. Some of these rules are exempted by A.R.S. § 41-1005 or 41-1057; other rules are exempted by other statutes; rules of the Corporation Commission are exempt from Attorney General review pursuant to a court decision as determined by the Corporation Commission.

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TITLE 19. ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING

CHAPTER 2. ARIZONA RACING COMMISSION

PREAMBLE

1. **Sections Affected**

R19-2-401	New Section
R19-2-402	New Section
R19-2-403	New Section
R19-2-404	New Section
R19-2-405	New Section
R19-2-406	New Section
R19-2-407	New Section
R19-2-408	New Section
R19-2-409	New Section
R19-2-410	New Section
2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 41-1005(A)(18)
Implementing statute: A.R.S. § 5-111(A)
3. **The effective date of the rules:**

February 26, 1996
4. **A list of all previous notices appearing in the *Register* addressing the exempt rule:**

Notice of Rulemaking Docket Opening:
1 A.A.R. 328, April 14, 1995
5. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: William J. Walsh
Address: Department of Racing
15 South 15th Avenue, Suite 100
Phoenix, Arizona 85007
Telephone: (602) 542-5151
Fax: (602) 542-5177
6. **An explanation of the rule, including the agency's reasons for initiating the rule, including the statutory citation to the exemption from the regular rulemaking procedures:**

A.R.S. § 41-105(A)(18) provides the Arizona Racing Commission the statutory exemption to the regular rulemaking process for rules adopted under A.R.S. § 5-111(A). Teletracking is specifically authorized under A.R.S. § 5-111(A). The rules will establish Article 4 as Teletracking. The rules also define the terms associated with teletracking and outline the requirements for approval of a teletrack permit, teletrack facilities, transmission of signal, and licensing of employees.
7. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

None.
8. **The summary of the economic, small business, and consumer impact:**

None
9. **A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**

None

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10. A summary of the principal comments and the agency response to them:

None.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None.

12. Incorporations by reference and their location in the rules:

New Section R19-2-402(A) states that all applicable Department of Racing rules and regulations governing pari-mutuel wagering are incorporated by reference as also governing Teletrack wagering.

13. Was this rule previously adopted as an emergency rule?

No.

14. The full text of the rules follows:

TITLE 19. ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING

CHAPTER 2. ARIZONA RACING COMMISSION

ARTICLE 4. TELETRACKING

Section

<u>R19-2-401.</u>	<u>Definitions</u>
<u>R19-2-402.</u>	<u>Teletrack Wagering</u>
<u>R19-2-403.</u>	<u>General Provisions</u>
<u>R19-2-404.</u>	<u>Application for Original Teletrack Wagering Permit; Plan of Operation; Renewals of Teletrack Wagering Permit</u>
<u>R19-2-405.</u>	<u>Application for Approval of Additional Wagering Facilities; Plan of Operation; Renewal or Approval of Additional Wagering Facilities</u>
<u>R19-2-406.</u>	<u>Requisites for a Teletrack Wagering System</u>
<u>R19-2-407.</u>	<u>Transmission</u>
<u>R19-2-408.</u>	<u>Suspension of Teletrack Permit</u>
<u>R19-2-409.</u>	<u>Licensing of Employees at Teletrack Facilities</u>
<u>R19-2-410.</u>	<u>Directives</u>

ARTICLE 4. TELETRACKING

R19-2-401. Definitions

For purposes of this Article, in addition to the definitions set forth in R19-2-102 and R19-2-302, and unless the context otherwise requires:

1. "Teletrack Wagering Permit" means a permit issued by the Commission authorizing a sending track to telecast a racing program to single or multiple teletrack wagering facilities within the state of Arizona for the purpose of pari-mutuel wagering.
2. "Teletrack Facility" means an additional wagering facility owned or leased by an Arizona permittee which is used for handling legal wagers.
3. "Satellite" means the receiving and retransmission space station which is in orbit with the earth.
4. "Sending Track" means the enclosure where a racing program of authorized live racing is conducted from which teletracking originates.
5. "Teletracking" means the telecast of live audio and visual symbols of horse, mule, or greyhound racing programs conducted at an authorized enclosure within Arizona to an authorized additional wagering facility within Arizona for the purpose of pari-mutuel wagering.
6. "Teletrack Wagering" means pari-mutuel wagering conducted at a teletrack facility within Arizona on a racing program which is conducted at an authorized track within Arizona.
7. "Transmission" means the point-to-point sending and receiving of an audio/visual signal by any method approved by the Department of Racing.

8. "Operating Hours" means the hours in which pari-mutuel windows are open at a teletrack facility.

9. "Sales Transaction Data" means the electronic signals transmitted between totalisator ticket-issuing machines and the totalisator central processing unit for the purpose of accepting wagers and generating, canceling, and cashing pari-mutuel tickets; also, the financial information resulting from processing sales transaction data, such as handle and revenues.

10. "Pari-Mutuel Output Data" means any data provided by the totalisator system other than sales transaction data including, but not limited to, odds, will pays, race resultant pay-off prices.

11. "Racing Program" means the live races conducted at an authorized track, approved dark-day simulcasts, and any simulcast races shown to the public in conjunction with live racing on which pari-mutuel wagering is allowed.

R19-2-402. Teletrack Wagering

- A. All applicable Department Rules and Regulations governing pari-mutuel wagering are herein incorporated by reference as also governing teletrack wagering. Teletrack monies wagered shall be made a part of the pool of the sending track.
- B. Sales transaction data from a teletrack facility to the sending track must be maintained as a separate account for audit purposes.
- C. Sales transaction data shall, by the use of currently approved technology, be transmitted separately from pari-mutuel data and the visual display of the races.
- D. In case of interruption of transmission of sales transaction or pari-mutuel output data to or from the teletrack facility, the designated representative of the Department may require that the amount of wagers which have been accepted be deducted from the sending track pool, the odds recalculated, and those monies bet at the teletrack facility refunded, taking into consideration time, the extent of the breakdown and the amount of monies wagered.

R19-2-403. General Provisions

The following rules shall apply to each teletrack facility:

1. At the Director's discretion, a Department representative may be present during all operating hours.
2. Suitable back-up or replacement tote equipment shall be available such that down time in the event of equipment failure shall be 60 minutes or less, during operating hours. At teletrack sites with multiple teller equipment installed, back-up equipment may consist of the remaining operating teller machines provided that the remaining machines are sufficient to handle the reasonably anti-

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- pated volume of sales transactions without unreasonable delays or inconvenience to patrons.
3. The permittee is responsible during the racing program for reporting any problems or delays to the public.
 4. Security requirements will be adequate to control disturbances.
 5. Communications must allow the sending track and teletrack facility to communicate without delay.
 6. Photo finish pictures of the previous day's live races will be available for viewing upon request within 48 hours.
 7. A video monitor showing the following information must be in operation during all operating hours:
 - a. Will pays or odds as shown at the sending track.
 - b. Race results.
 - c. Prices or payoff.
 - d. Minutes to post.
 8. Notwithstanding subsection (7), should a breakdown occur in the video display of the race and in the will pay (odds), the permittee shall immediately contact the Director or his designee. If the video display is not restored within 60 minutes, the manager or managers at the facility or facilities shall inform the public that the facility or facilities will close. To accommodate its patrons, wagers for the current race or for later races on the card may be taken for an additional 30 minutes. The permittee shall provide the Department a written report concerning the circumstances within 2 days of any such breakdown.
 9. Arizona pari-mutuel rules must be available in the wagering area.
 10. Notice of any race cancellation, scratches, and other changes shall be posted conspicuously as soon as possible in the wagering area.
 11. The results of each race, and the winnings therefrom, shall be posted as soon as possible at each teletrack facility and shall be available to the wagering public for 24 hours on the race day following the day of the race.
 12. A permittee shall report to the Department any violation or suspected violation of law which occurs on or about the premises of the teletrack facility.
 13. The permittee shall make daily handle and attendance reports for each teletrack facility as prescribed by the Department.
 14. Betting Period:
 - a. Wagering may only be conducted during periods approved by the Director or Commission in respect to any race, racing card, pool, or feature pool.
 - b. The Director may prescribe the closing time for pari-mutuel equipment at each facility based on the level of sophistication of the pari-mutuel equipment and transmission equipment.
 15. The method used to transmit sales transaction and pari-mutuel output data shall be approved in writing by the Director, based upon the Director's determination that provisions to secure the system and transmissions are satisfactory.
 16. The permittee shall provide computer reports pertaining to pari-mutuel activity as required by the Director.

R19-2-404. Application for Original Teletrack Wagering Permit; Plan of Operation; Renewals of Teletrack Wagering Permit

- A.** An applicant must submit an Application for a Teletrack Wagering permit and a Plan of Operation to the Commission before the Commission may grant a teletrack wagering permit. The length of the permit shall not exceed 3 years. The Plan of Operation shall include but not be limited to the following:

1. Feasibility and accounts. A feasibility study denoting the estimated gross revenue from the teletrack wagering operation and the estimated costs to operate. The feasibility study shall include:
 - a. The number of races to be displayed;
 - b. The types of wagering to be offered and hours during which pari-mutuel windows will be in operation;
 - c. The estimated attendance at all additional wagering facilities;
 - d. The level of anticipated wagering activity;
 - e. The source and amount of estimated revenues other than pari-mutuel wagering;
 - f. The cost of operating the teletrack wagering system;
 - g. The amount and source of revenues needed for financing the teletrack wagering operation;
 - h. Proof of financial stability and assets sufficient to cover projected costs;
 - i. An estimate of the total amount of anticipated revenues to be paid to the state of Arizona resulting from teletrack wagering operations.
2. Proof of compliance with applicable FCC regulations, and applicable FCC licensing requirements.
3. Contracts and agreements. The following information must be submitted in relation to any groups, concessions, or contracts whether within or outside of Arizona which are related to the teletrack wagering operation unless such information is already on record with the Department as part of the permittee's original application to operate racing meet:
 - a. Copy of all contracts to provide service within Arizona;
 - b. Names and background of the individuals responsible for operating the teletrack wagering system;
 - c. Copies of proposed agreements for the transmission of audio-visual signals of racing events and transmission of sales transaction and pari-mutuel output data;
 - d. Other information which, in the Director's judgment, is or may be material, such as information pertaining to financial background and persons associated with the parties to the contract.
4. Security.
 - a. The security measures to be employed to protect the teletrack wagering facilities;
 - b. The security measures to be employed to protect the public;
 - c. The security measures to be employed to prevent the interception of audio and video signal transmission of races;
 - d. The security measures to be employed to protect transmission of sales transaction and pari-mutuel output data.
5. Equipment, communication, and transmission.
 - a. The type of data processing, communication, and transmission equipment to be utilized;
 - b. A description of all computer services and all other methods utilized for the transmission of any data or signal;
 - c. A description of any alternate or backup system in case of principal system failure of communications or data-processing equipment used for forwarding wagers;
 - d. Identification of satellite, if applicable;
 - e. Additional information which may be required, at the discretion of the Director, such as the names, addresses, and phone numbers of all individuals who

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will be involved in the delivery of the signal.

B. Approval and amendments. A permittee shall conduct a teletrack wagering operation only according to the provisions of an approved Plan of Operation. Any change to the Plan of Operation will be allowed only when approved in writing by the Director. A permittee shall:

1. Report to the Department any changes in ownership/management groups;
2. Provide to the Department new contracts or amendments to existing ones;
3. Request the approval of the Director for any change in technology used to transmit sales transaction data;
4. Notify the Department of any change in the Plan of Operation.

C. Renewal. A permittee shall apply to the Racing Commission for renewal of its teletrack wagering permit at the time it makes application for a permit to operate a racing meet. The application for renewal shall provide the information required in subsections (A)(1) through (A)(5) above.

R19-2-405. Application for Approval of Additional Wagering Facilities; Plan of Operation; Renewal or Approval of Additional Wagering Facilities

A. A permittee who holds a permit for teletrack wagering shall submit an Application for Approval and a Plan of Operation for each additional teletrack wagering facility to the Racing Commission. The length of the permit for an additional wagering facility shall not exceed 3 years. The Plan of Operation shall include but not be limited to the following:

1. **Feasibility and accounts.** A feasibility study denoting the estimated gross revenue from the teletrack facility and the estimated costs to operate the facility. The feasibility study shall include:
 - a. The number of races to be displayed;
 - b. The types of wagering to be offered and the hours during which pari-mutuel windows will be in operation;
 - c. The estimated attendance at the teletrack facility;
 - d. The level of anticipated wagering activity;
 - e. The source and amount of estimated revenues from sources other than pari-mutuel wagering;
 - f. The cost of operating the facility;
 - g. The amount and source of revenues needed for financing the teletrack wagering operation;
 - h. Proof of financial stability and assets sufficient to cover projected costs;
 - i. an estimate of the total amount of anticipated revenues to be paid to the state of Arizona resulting from teletrack wagering.
2. **Contracts and agreements.** The following information must be submitted in relation to any groups, concessions, or contracts, whether within or outside of Arizona, which are connected with the operation of a teletrack facility, unless such information is already on record.
 - a. Listing and background of the management groups responsible for the operation of the facility;
 - b. The names of all individuals who own 10% or more of the facility;
 - c. Other information which in the Director's judgment, is or may be material, such as information pertaining to financial background and persons associated with the parties to the contract.
3. **Security.** The measures to be employed to protect the facility, the employees, the public, and the wagering dollars.
4. **Location of the teletrack wagering facility.**

5. Proof that approval for use of the facility to handle pari-mutuel wagering has been given by the governing body of the city or town or by the board of supervisors, if the facility is located in an unincorporated area.

6. **Building plans and specifications.** Adequate provision shall be made for areas appropriate for patrons to handicap the races and the facilities shall allow reasonable access by handicapped persons.

B. Approval and amendments shall be the same as provided in subsection (B).

C. Renewal. A permittee shall apply to the Department for renewal of its additional wagering facility permits at the time it makes application to renew its Teletrack Wagering Permit. Upon receipt of a completed application, the Director may approve the:

1. Renewal of a teletrack wagering facility;
2. A permittee's application to begin operation at a teletrack wagering facility previously approved by the Racing Commission and currently used by another permittee.

D. After receiving approval from the Racing Commission, a new facility may not open for business for a period of 5 working days or until all licensing requirements are satisfied. Should the necessary licensing requirements be completed in less than 5 working days, the remaining days may be waived by the Director.

R19-2-406. Requisites for a Teletrack Wagering System

After a permit has been granted by the Commission but prior to beginning operation, if the applicant is required to utilize encoding and decoding systems, applicant will submit the following to the Director:

1. A description of the coding system used for any authorized encoding and decoding systems;
2. Number and manufacturer of any encoders and decoders;
3. Serial numbers of all encoders and decoders, updated monthly;
4. Number and location of decoders, updated monthly.

R19-2-407. Transmission

A. Only persons authorized in writing by the Director will have access to the encoder and decoder. An updated list of the location of all decoders, controlled by the sending track or its designee capable of obtaining the race signal of Arizona racetracks shall be provided to the Department every 30 days.

B. Decoder authorization codes shall be changed more often than every 30 days and changes may be required more often by the Director.

C. The sending track or its licensed designee (who must be approved by the Director) will be the sole controller of the codes.

R19-2-408. Suspension of Teletrack Permit

A. The Director or his designee may suspend any permit authorizing the operation of teletrack wagering or may suspend any permit to operate an additional wagering facility granted to a permittee if such permittee fails to conduct operations in accordance with the provisions of the applicable Plan of Operation, the applicable rules, or directives or statutes.

B. If the Director finds that the public health, safety or welfare imperatively requires emergency action, he or she may order summary suspension of a teletrack wagering permit or may order summary suspension of any permit authorizing operation of an additional wagering facility, pending a hearing.

R19-2-409. Licensing of Employees at Teletrack Facilities

A. A teletrack wagering facility shall not participate in teletrack wagering unless all individuals required to be licensed in subsection (B) of this Section have been licensed.

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B. The following individuals shall be licensed by the Department prior to participating in teletrack wagering:

1. All persons employed at any teletrack facility by any permittee;
2. All persons who own 10% or more in a teletrack facility leased be a permittee;
3. Any individual employed by the facility who has responsibility as manager of the facility during operating (racing) hours;

4. Any other person designated by the Director.

R19-2-410. Directives

Notwithstanding anything contained herein, decisions on other matters which arise concerning teletrack facility operations may be made by the Director, within the scope of his statutory authority. Such decisions shall be effective immediately upon written notification.